

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

VINCENT HARRY SMALL,)
Petitioner,)
v.) Case No. CIV-23-1127-D
WILLIAM RANKINS,)
Respondent.)

ORDER

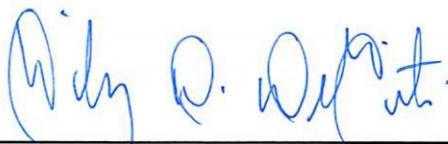
On June 18, 2024, the Court adopted the Report and Recommendation issued by United States Magistrate Judge Amanda Maxfield Green and dismissed this action without prejudice for lack of jurisdiction. *See* 6/18/2024 Order [Doc. No. 26]. The Court entered judgment the same day. *See* Judgment [Doc. No. 27].

On July 8, 2024, the Court received a filing from Petitioner entitled “Petitioners Response to Courts Order” [Doc. No. 28]. It is unclear whether the filing was intended to be an objection to the Report and Recommendation, but, to the extent it was, the filing was received nearly one month too late. *See* Report and Recommendation [Doc. No. 25] at 10 (advising Petitioner that any objection must be filed with the Clerk of Court by June 10, 2024); *see also* 6/18/2024 Order at 1 (finding that, because Petitioner made no timely objection, he waived further review of the Report and Recommendation). In any event, the Court finds that a *de novo* determination of the issues raised by Petitioner’s filing would not affect the disposition of this case. Even liberally construing the filing as an objection, Petitioner in no way addresses the jurisdictional deficiencies identified by Judge Green in

the Report and Recommendation. Therefore, to the extent the filing was intended to be an objection to the Report and Recommendation, Petitioner's objection is **OVERRULED**.

Further, if construed as a motion under Federal Rule of Civil Procedure 59(e), Petitioner's filing fails to satisfy any of the available grounds for relief. *See Servants of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000) (holding that the grounds for granting relief under Rule 59(e) "include (1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct clear error or prevent manifest injustice"). A Rule 59(e) motion is "not appropriate to revisit issues already addressed or advance arguments that could have been raised in prior briefing." *Id.* Upon consideration of Petitioner's filing, the Court finds insufficient reason to disturb the June 18, 2024 Order and Judgment. Indeed, the majority of Petitioner's filing appears to be the same arguments advanced in his Petition, which the Court dismissed. Therefore, to the extent Petitioner's filing is construed as a motion under Rule 59(e), there is no sufficient basis for reconsideration. The motion is **DENIED**.

IT IS SO ORDERED this 17th day of October, 2024.



TIMOTHY D. DEGIUSTI
Chief United States District Judge